CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 85002 OF 2024
WITH
CUSTOMS APPLICATION (MISC) NO: 85004 OF 2024
(on behalf of appellant)

[Arising out of Order-in-Original No: 177/2023-24/Commr/NS-V/CAC/JNCH dated 17th November 2023 passed by the Commissioner of Customs (NS-V), Nhava Sheva.]

Mirc Electronics Ltd
Onida House, G-1, MIDC, Andheri (East)
Mumbai-400 093 … ***Appellant***

versus

Commissioner of Customs (NS-V)
Jawarharlal Nehru Custom House, Nhava Sheva, Uran,
Raigad, Maharashtra-400 707 ***…Respondent***

APPEARANCE:

Shri T Vishwanathan and Shri Akhilesh Kangasia, Advocates for the appellant

Shri Ranjan Kumar, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85834/2024

DATE OF HEARING: 29/02/2024
DATE OF DECISION: 28/08/2024

PER: C J MATHEW

The appellant, M/s Mirc Electronics Ltd, believed that they had imported parts of television sets and they were not wrong either for it is not in dispute that the imports are not television sets as perceived by the retail market; the ‘proper officer’ under section 17 of Customs Act, 1962 who processed bill of entry no. 8406533/24.04.2022, too, did not think otherwise. There matters rested till about the time that the ‘proper officer’ under section 47 of Customs Act, 1962 was required to consider the clearance of imported goods for home consumption. The Central Intelligence Unit of Jawaharlal Nehru Customs House (JNCH) were clear that the goods were not only liable to duties of customs at the rate applicable to tariff item 8528 7215 of First Schedule to Customs Tariff Act, 1975 corresponding to ‘LED television’ but also not in concord with licencing requirements as ‘restricted goods’ consequent to issue of notification no. 22/2015-22 dated 30th July 2020. The dispute was adjudicated by Commissioner of Customs (NS-V), Jawaharlal Nehru Customs House (JNCH), Nhava Sheva to confiscate the goods under section 111(d), 111(m) and 111(o) of Customs Act, 1962 only to be offered for redemption under section 125 of Customs Act, 1962 on payment of fine of ₹ 45,30,000 solely for re-export besides imposing penalty of ₹ 52,95,302 each under section 114A and section 112 of Customs Act, 1962 for not being in possession of licence for import of ‘LCD television’ as well as not being in compliance with standards prescribed by Bureau of Indian Standards (BIS). It is that order[1] which is under siege in the proceedings initiated by the appellant before us.

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[1] [order-in-original no. 177/2023-24/Commr/NS-V/CAC/JNCH dated 17th November 2023]

2. This, according to appellant, has all the bearings of arrogant sweep from the arrogating of a very limited concept intended for a particular purpose for encompassing other laws or, accurately speaking, to impose restrictions envisaged in other laws to an unoffending import. Learned Counsel for appellant asserted that the condition of re-export is not a consequence of 'quantitative restriction' regime and that the 'standards conformity' regime does not cease with clearance for home consumption; those same standards would come into play for goods in the domestic market precluding, therefore, intervention of customs authorities, and, more particularly, owing to the 'backhanded' manner in which the goods were construed to be that which it was not to the naked eye.

3. Learned Authorised Representative submitted that the goods were not denied to be parts that make up almost the complete requirement for assembly of televisions. He contended that assessment as finished product is the proximate consequence of such imports in accordance with rule 2 of General Rules for Interpretation of the Import Tariff. He argued that, with such determination, the restrictions on import – licencing and standards – should be applied with all the consequences of detriment arising from non-compliance.

4. The imported goods are, admittedly, parts of televisions and intended for assembly as 'LED television' and appellant has not been able to demonstrate that rule 2 of General Rules for Interpretation of the Import

Tariff is not applicable to them. Accordingly, the classification adopted in the impugned order is not open to challenge. As the re-determination hinges only on such interpretation, no ground has been made for invoking of section 111(m) of Customs Act, 1962.

5. That goods to be produced domestically from such parts should be subjected to restriction intended on import of similar finished goods does not appeal to logic and reason. The adjudicating authority has not obtained any clarification from the Directorate General of Foreign Trade (DGFT); nor is there any finding on the objective of such restriction being applicable here. It would appear to us that domestic trade in 'LED televisions' to be manufactured by the importer is subject to the same regulatory standards as the finished goods on import. That oversight is best left to the authority concerned with supervision of domestic transactions. There is, this, no ground for confiscation of the impugned goods under section 111(d) or section 111(o) of Customs Act, 1962.

6. Consequently, while upholding the assessment to differential duty in the impugned order, the confiscation and redemption fine are set aside.

(Order pronounced in the open court on 28/08/2024)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*